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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,776	08/15/2003	Paul K. Meeker	43064-0017	1775
24115	7590	02/22/2005	EXAMINER	
BUCKINGHAM, DOOLITTLE & BURROUGHS, LLP			MAI, TRI M	
50 S. MAIN STREET			ART UNIT	
AKRON, OH 44308			PAPER NUMBER	

3727

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

5A

Office Action Summary	Application No. 10/604,776	Applicant(s) MEEKER, PAUL K.	
	Examiner Tri M. Mai	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
 4a) Of the above claim(s) 38-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/27/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Claims 38-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention. There being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12/06/04.

Regarding the burden of search on the examiner, it is noted that each of the disclosed invention requires a separate search exclusively for that invention. The method claims require additional search in the class specific to methods in classes 53 and 493, and the claims directed to the subcombination require search specific to the locking mechanism in class 292 and possibly class 70.

It is further noted that each search and additional consideration on each claim requires additional time and effort.

It is noted that the election of specifics is considered in place in the event applicant add new claims to the application.

2. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "closed and said at least one ...open position" is confusing.

3. Claims 1-3, 5, 6, 8, 10-13, 15-17, 20-22, 24, 25, 27, 29-32, and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Unser (619809). Unser teaches a container having a first flap 5, first opening 9, second flap with second opening 7, a closure member having a first member 14 rotatable within the first member and having an open position, and second member

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8+11 fixedly attached to the first member and extend through the second opening when the container is closed as shown in Fig. 2.

4. Claims 4, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unser '809 in view of Unser (624408). It would have been obvious to one of ordinary skill in the art to provide the container from cardboard in Unser '809 as taught by Unser '408 to provide the desired material for the box.

5. Claims 7, 9, 18, 19, 23, 26, 28, 33, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unser '809 in view of Robins (2401664). It would have been obvious to one of ordinary skill in the art to provide a handle with a leg positioned within one aperture in User '809 as taught by Robin, note apertures 12 and 13, to provide an alternative handle.

6. Claims 1-4, 10-14, 20-23, and 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Adler (347761). Adler teaches a container having fist flap K, 1st opening h, 2nd flap K1, 2nd opening h1, a closure member having 1st member h insertible into and rotatable within the first opening and 2nd member b, extending through the second opening in the closed position.

7. Claims 5-8, 15-18, 24-27, and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adler in view of Vlasaty et al. (5106015) It would have been obvious to one of ordinary skill in the art to provide the handle a leg positioned within one aperture in Adler as taught by Vlasaty to carry the container easily.

8. Claims 9, 19, 28, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adler in view of Guyer (2383853) It would have been obvious to one of ordinary skill in the art to provide an in Adler as taught by Guyer to carry the container easily.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (571)272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
Art Unit 3727

